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Intergovernmental working group of experts
on human rights of migrants
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INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Submission from the Government of the Republic of Lithuania
dated 5 February 1998

GE.98-10433

Re: Answers to questionnaire
on Human Rights of Migrants

Dear Madam/Sir,

In response to the letter of the Office of the United Nations High Commissioner for Human Rights dated 2 December 1997, we have the honour to present some information concerning human rights of migrants in the Republic of Lithuania.

Encl.: 7 pages.

Respectfully,

S Jakštonytė

S.Jakštonytė (Ms.)
Deputy Director

SOME ISSUES RELATED TO PROTECTION OF REFUGEE RIGHTS IN LITHUANIA

Relevant legislative measures taken

Generally, the legal status of foreigners in Lithuania is regulated by the *Law on the Legal Status of Aliens*[1] and the *Law on Immigration* (the both laws were adopted on September 4, 1991). As regards the refugees in particular, Lithuania has adopted the *Law on Refugee Status* (it was passed on 4 July 1995). The *Law on Refugee Status* establishes the conditions and procedure for the provision and denial of refugee status to asylum seekers in the Republic of Lithuania, as well as refugee rights, duties, and the basis for the entrance and deportation of aliens.

The implementation of the Law was conditioned to the subsequent adoption of certain governmental regulations and to the establishment of the required infrastructure as well as ratification of the 1951 Geneva Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees[2]. Thereupon, the national asylum procedures became operational.

From among the by-laws adopted by the Government in implementing the *Law on Refugee Status* the following are to be mentioned:

- Regulation of the Refugee Reception Centre in Rukla (of 27 March 1996);
- Resolution on Establishment of Foreigners Registration Centre (of 30 September 1996);
- Resolution on Establishment of the Refugee Affairs Board (of 8 March 1997);
- Regulation of the Refugee Affairs Board (of 31 May 1996);
- Resolution on Examination of Applications for Refugee Status (of 3 March 1997);
- Resolution on Refugee Status in the Republic of Lithuania (of 3 April 1996);

It should be said that generally the national legislation in this field is consistent with international standards.

Procedure

Pursuant to the national *Law on Refugee Status in the Republic of Lithuania* and the above-mentioned Governmental resolutions the procedure for a refugee status determination consists of four main stages:

I. Admittance into the territory of the Republic of Lithuania.
II. Admittance into asylum procedure.
III. Substantive refugee status determination.
IV. Appeal procedure against refusal to grant refugee status:
    1) appeal to the Refugee Affairs Board;
    2) appeal to the law court.

Admittance into the territory of the Republic of Lithuania means that submission of asylum application is in itself a sufficient ground for foreigner's temporary stay on the territory of the Republic of Lithuania pending his/her status determination. The *Law on Refugee Status* (para.4, Article11) provides that there shall be refugee centres established to settle foreigners who have received temporary territorial asylum. Up-to-date there is one such institution established, i.e. located in Rukla town. It accommodates asylum seekers who have been granted temporary territorial asylum pending a decision on refugee status. Pursuant to the

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[1] A draft of new law on the legal status of aliens is submitted to the Parliament (Seimas). The new law will meet the European Union requirements in this field as well as the international conventions Lithuania has acceded to.

[2] Lithuania ratified the 1951 Convention of the Status of Refugees and its 1967 Additional Protocol on 21 January in 1997. These international multilateral agreements entered into force for Lithuania on 27 July 1997.

national legislation, a foreigner who has submitted a request for refugee status at the border control post must go to the refugee centre without delay.
In addition to the Refugee Centre there is the Foreigners Registration Centre, located in the town of Pabrade. It is a pre-screening institution for accommodation of asylum seekers pending their admittance into asylum procedure. The Centre is vested with the responsibility of making primary interviews on temporary territorial asylum, conducting the investigation aiming to verify if there are any reasons preventing the foreigner from enjoyment of asylum in Lithuania and submitting recommendations on grant or refusal of temporary territorial asylum, which is forwarded to the Migration Department[3].
In general, it is the Migration Department to the Ministry of the Interior which is charged with making decisions on admittance into the territory of the Republic of Lithuania.

Admittance into asylum procedure implies that a person is granted a temporary territorial asylum. The decisions on admittance to asylum procedure are taken by the Migration Department to the Ministry of the Interior. The foreigner is provided with temporary territorial asylum after having been established that there are no reasons barring the use of the Republic of Lithuania as an asylum. No appeal is provided against the negative decision. Temporary territorial asylum is granted while the request for refugee status in Lithuania is examined, or until he/she obtains a permit to enter another country. A document certifying the temporary asylum is issued. This document, at the request of the foreigner, provides for free travel to the refugee centre.

Substantial refugee status determination results in granting or refusal to grant refugee status. Refugee status is provided or denied by the Ministry of the Interior. The document certifying refugee status is issued to the foreigner by the Ministry. At the request of refugee, the Ministry of the Interior issues, subject to certain limitations, a travel document for trips outside the boundaries of the Republic of Lithuania.
Those who have been granted refugee status will get a residence permit and go through the social integration programme which will soon be finalised and approved by the Government of the Republic of Lithuania.
Generally a request for refugee status is to be examined within 6 months of the request being filed.

Appeal procedure against refusal to grant refugee status:

1) appeal to the Refugee Affairs Board.

A foreigner can appeal against a refusal to provide refugee status within 14 calendar days of receiving the decision to the Refugee Affairs Board[4]. Thus the Board examines appeals of asylum seekers against negative decision on refugee status, issued by the Ministry of the Interior.

2) appeal to the law court.

In accordance with the national legislation the foreigner can appeal in court against a

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[3] It should be said, however, that the Foreigners Registration Centre also serves another purpose - foreigners who illegally arrived to the Republic of Lithuania and are illegally staying there are placed at the Centre prior to their deportation.

[4] The Refugee Affairs Board was established on 6 June 1996. The composition of the Board, approved by the Government, stands as follows: one member of the Parliamentary Committee on Health Care, Social Affairs and Labour; one member of the Parliamentary Committee on Human and Civil Rights and Ethnic Affairs; representatives of the President of the Republic of Lithuania, Ministry of Health Care, Ministry of Education and Science, Ministry of Justice, Ministry of Foreign Affairs, Red Cross Society, and the Centre of Human Rights. The Board must investigate the foreigner's complaint within 10 calendar days of its receipt.

decision of the Refugee Affairs Board not to provide refugee status within 14 days of being notified of this decision. The court must give its ruling no later than 10 days after receiving the request for appeal. The judgement is final and cannot be appealed.

Legal protection of asylum seekers

Pursuant to the *Law on Refugee Status*, a refugee[5] in Lithuania enjoys all the rights pertaining to foreigners, which are established in international treaties and laws of the Republic of Lithuania.

The following legal guarantees of foreigners seeking asylum in Lithuania are to be mentioned.

A foreigner requesting refugee status, while his/her request is being examined:

1) is exempt from payments and taxes related to processing of documents concerning the request for refugee status;
2) uses the services of an interpreter free of charge;
3) lives in the refugee centre free of charge;
4) uses medical or psychological services free of charge;
5) uses services to legal consultation on the issue of providing refugee status;
6) every month receives a money allowance for minor expenses.

In accordance with the national legislation Lithuanian language teaching courses can be offered to refugees in Lithuania. Further, if necessary, special groups for the care of pre-school-age refugee children can be established.

Moreover, the *Law on Refugee Status* provides that legal and natural persons of the Republic of Lithuania shall establish a humanitarian aid fund for refugees. The activity of the funds can be supported by other states, international organisations and foreign private persons.

It is provided that a foreigner who seeks to receive refugee status in the Republic of Lithuania could not be deported or returned from the Republic of Lithuania to the country he/she left, if his/her life or freedom is exposed to danger as provided for in the present Law.

Meanwhile, a foreigner who has no right to enjoy asylum in the Republic of Lithuania and obtain refugee status according to the Law, can be deported from the Republic of Lithuania[6] only on the basis provided for in laws of the Republic of Lithuania. The Minister of the Interior adopts the decision concerning the foreigner's deportation.

A serious guarantee of refugee rights is the Refugee Affairs Board which is obliged to take measures against violating human rights with regard to refugees. It investigates reports and appeals related to facts of human rights violations of refugees or asylum seekers.

Present factual situation

Lithuania is making efforts to comply with international standards on asylum seekers protection. As described above, our country has created certain institutional capacity to deal with refugee matters. Nevertheless, our country still needs to solve a number of problems related to international migration. One of serious problems is the prolonged detention of migrants/asylum seekers at the Foreigners Registration Centre in Pabrade town. Detained persons previously were frequently returned to Belarus (a majority of them come to Lithuania namely through this neighbouring country), but

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[5] Pursuant to Article 2 of the Law on Refugee Status, in the Republic of Lithuania a foreigner shall be recognised as a refugee, if he/she has well-founded reasons to fear persecution because of his/her racial origin, religion, nationality, membership in some social group, or political views and cannot, or fears to, enjoy the protection of the country of which he/she is a citizen, or if he/she has no corresponding citizenship and is outside the territory of the country where he/she used to reside, and due to above reasons cannot, or fears to, return home.

[6] The procedure for deportation shall be set by the Government of the Republic of Lithuania according to the national laws.

lately have been refused readmission. As a result there are currently a considerable number of persons held in detention at the Pabrade Centre, some of whom have already been detained for several months. It is quite understandable that those who could not count for the refugee status need to be deported. Nevertheless the detainees at the Centre include both asylum seekers and persons who have left their countries of origin for other reasons. Considerable numbers of asylum seekers are waiting for quite prolonged time for a decision in their particular case. However, the detention in custody at the Pabrade Centre should be regarded as a measure necessary to ensure the aliens presence during examination of his/her case. Efforts are being taken to minimise detention period as well as to improve the detention procedure and material conditions of detainees.

As to the present refugee status has been granted to six individuals in Lithuania (one of them in appeal instance).

During the recent years there were no persons who applied for asylum at border posts. Only whilst being brought to the Foreigners Registration Centre a part of them applied for asylum (123 as of January 1998). The current number of migrants detained in the Foreigners Registration Centre reaches 234 persons. Meanwhile some time ago there were almost one thousand persons detained at the Pabrade Centre. The decrease in numbers was due to the successfully implemented voluntary return programme[7], organised by the International Organization for Migration and Foreigners Registration Centre, and recent transfer of asylum seekers to the Refugee Reception Centre. At the end of 1997 the Lithuanian Ministry of the Interior arranged voluntary return for a group of 200 stranded migrants. In total 1052 persons were removed from the Pabrade Registration Centre during 1997. Furthermore, as regards most recent developments one group of 103 persons was sent back from the Foreigners Registration Centre to Sri Lanka on 15 January of this year, while another group consisting of 84 persons was returned to Sri Lanka on 22 January.

The current number of asylum seekers in the Refugee Reception Centre in Rukla is 100 persons. The last group of 33 persons was transferred to the Refugee Reception Centre from the Pabrade Centre on 11 December 1997.

Up-to-date negative decisions, rejecting refugee status in the territory of Lithuania have already been made in respect of 34 persons. Almost all of them appealed to the Board of Refugee Affairs to get the decision reversed. The first appeal meeting of the Board convened on 5 December 1997, when two cases were heard. In one case the decision of the Migration Department was upheld, while in the other case the person was granted refugee status. The rejected case by the first appeal instance (i.e. Board of Refugee Affairs) will soon be submitted to the second appeal instance (i.e. court).

Measures taken to strengthen the promotion, protection and implementation of the human rights of refugees

- Public information issues. It has been agreed to set up an inter-ministerial committee consisting of representatives from the Ministry of the Interior and the Ministry of Social Security and Labour in order to deal with dissemination of asylum procedure-related information. It was expected that a draft concept of establishing a unified information system should be prepared by the end of January 1998. The Danish Immigration Service intends to invite Lithuanian officials dealing with documentation matters to work for a week in the Documentation Unit in the Danish Immigration Service in Copenhagen.
- Implementation of educational and training programmes. In November 1995, UNHCR commissioned a one-day symposium in Vilnius and a three-day seminar in Trakai, for government officials and non-governmental organisations representatives, on refugee issues. In 1996, UNHCR provided funding for 9 seminars for the promotion of and education concerning human rights. The

[7] From October 1997 approximately 600 persons were sent back voluntarily.

Lithuanian Centre for Human Rights arranged seminars in various towns of Lithuania. On 5-6 June 1996, UNHCR organised a seminar on refugee issues for public relations/media representatives. On 2-5 December 1996, together with the Ministry of Education and Science, UNHCR organised two seminars for Lithuanian teachers. Active teaching methods (e.g. indoor and outdoor games) have been employed.

- **Humanitarian assistance to asylum seekers in the Foreigners Registration Centre and Refugee Reception Centre.** Co-operation arrangements with the Vilnius and Kaunas Caritas to channel supplementary assistance through these non-governmental organisations to asylum seekers was concluded on 1 May, 1997. They will most likely be extended to mid-summer 1998.
- **A Twinning Arrangements has been proposed by the Danish Immigration Service,** using e-mail facilities in facilitating regular contacts between Danish and Lithuanian asylum/refugee experts.

  Establishment of the required infrastructure. Lithuania is further developing institutional network of the Foreigners Registration Centre, Refugee Reception Centre, Refugee Reception Board, the State Border Protection Department and other relevant bodies as well as mechanisms to deal with migration flows and refugee issues.
- **A Social integration programme** for refugees has been drafted by the Secretariat of the Board of Refugee Affairs. It encompasses housing, language training, employment, public awareness, etc.

II. International co-operation in the field of protection of refugee rights in Lithuania

There is a well established co-operation with the Nordic and some other countries as well as with the International Organization for Migration (IOM) Office in Helsinki, with United Nations High Commissioner for Refugees (UNHCR) Office in Stockholm, United Nations Development Programme (UNDP) - Vilnius.

It is expected that a co-operation agreement between the Government of the Republic of Lithuania and the IOM shall be signed in near future. Thereupon a regional IOM office will be established in Vilnius.

These main fields of international co-operation are to be mentioned.

- **Co-operation concerning the implementation of the Lithuanian refugee related policies.** Many Western countries and relevant international organisations provide with large measure of financial and logistic support to a humanitarian policy towards asylum seekers in Lithuania. In particular, the Nordic countries as have greatly supported the process of the implementation of both thorough direct and financial support and otherwise. A substantial assistance in the realisation of the *Law on Refugee Status* is provided through the Co-operation Agreement between the Ministry of the Interior, the Ministry of Social Security and Labour of the Republic of Lithuania and the Ministry of the Interior of Denmark.
- **Legal assistance project** has been tailored to assist asylum seekers with free legal counselling. This project is implemented under institutional shelter of the Lithuanian Red Cross and sponsored by UNHCR. Personnel for this project was recruited in the beginning of November 1997. Two training courses arranged by the Danish Immigration service and UNHCR Stockholm have been carried out. The lawyers have already been representing asylum seekers at the hearing of appeals at the Refugee Affairs Board. Further training of lawyers will be organised this year. Co-operation with the Open Society Fund - Lithuania within this project has been agreed.
- The 5th Donor Consortium[a] meeting was held on 22 January 1998 in

[a] The Consortium consists of five Nordic countries (Denmark, Finland, Iceland, Norway, and

Copenhagen. The main purpose of the meeting was to discuss the present state of the implementation process concerning the Lithuanian *Law on Refugee Status*, to determine needs of assistance in this connection and to discuss future donor assistance. The Lithuanian side was represented at the meeting by competent officials from the Migration Department to the Ministry of the Interior and the Foreigners Registration Centre. Nordic countries, the embassies of certain countries residing in Lithuania (i.a. the Nordic states, the Netherlands, Germany, France and USA), UNHCR Stockholm, IOM-Helsinki, UNDP Vilnius the Council of Europe's Social Development Fund, the Secretariat of the Nordic Council of Ministers in Copenhagen, the Council of Europe's Social Development Fund and European Union's Secretariat General Task Force in relation to Phare Eastern Border Management Programme.

- IOM Voluntary return of migrants programme is carried out in co-operation with administration of the Foreigners Registration Centre and UNHCR liaison officer/legal adviser. The US Government made $ 200,000 available for this programme to be implemented in Lithuania. One charter flight was arranged on 30 October 1997, and 103 people were sent to their home countries (India and Pakistan). Two more operations were successfully carried out on 11 and 12 December, when 58 Pakistani and 102 Bangladeshi left for their home countries. In addition, 337 migrants financed themselves their return to their homelands. As was mentioned above, recently two more groups of immigrants were sent back to Sri Lanka on 15 and 22 January of this year.

Conclusion of bilateral readmission agreements

Lithuania has concluded agreements on readmission with the following countries: Latvia, Estonia, Finland, Iceland, Italy, Slovenia, Sweden, Switzerland, Ukraine. The conclusion of readmission agreement with Ukraine (it came into force on 29 March 1997) was quite important as a number of persons detained in Lithuania come directly from Ukraine.

Moreover, it is expected to conclude corresponding agreements with Belarus, Russia, Poland, Germany. Taking into consideration a fact that most of illegal immigrants come from Belarus and, partly from Russia, the lack of readmission agreements with these transit countries seriously impairs dealing with the detained aliens. It is expected that respective agreements with Russia and Belarus will be concluded in the first half of 1998.

With regard to Lithuania's accession to the 1990 International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization (ILO) Convention concerning Employment of 1949 and the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers of 1975 it should be said that at present this matter is under consideration of competent authorities.

Sweden) which are assisting Lithuania in realisation of the refugee-related policy.

THE REPUBLIC OF LITHUANIA

Latest statistical data

Total population: 3,707,213 (as of 1 October 1997). Percentage of the nationalities: Lithuanians 81,5%; Russians 8,3%; Poles 7%; Belarussians 1,5%; Ukrainians 1%; Jews 0,2%; other nationalities 0,7%.
Non-citizens: in total 26,971 residence permits have been issued (to citizens of): Russia (12,024); Belarus (1,306); stateless persons (11,863); Ukraine (787); Poland (288); Kazakhstan (104); Latvia (102); Georgia (64); Israel (62); Armenia (54); *et al.*
Number of Lithuanian citizens abroad: 12,151 (as of 1 December 1997) *by country of residence*:
Argentina (74); Australia (253); Belarus (652); Belgium (12); Brazil (18); Bulgaria (16); Canada (531); Czech Republic (12); Great Britain (146); Estonia (978); Finland (28); France (54); Georgia (12); Germany (1,116); Greece (7); Hungary (17); Italy (28); Israel (1,167); Kazakhstan (54); Latvia (1,137); Moldova (20); Poland (338); Russia (2,688); Sweden (38); Switzerland (21); Ukraine (349); Uruguay (22); USA (2,231); Uzbekistan (7); Venezuela (21) *et al.*
Number of illegal migrants (excluding visa regime abusers) during 1997 reached 1,693, i.a. from Afghanistan (241); from Pakistan (268); from Bangladesh (257); from India (212); from China (263); from Sri Lanka (305); from other countries (103).
Number of non-citizens having authorization to work in the Republic of Lithuania amounted to 807 (as of 1 January 1998), coming, inter alia, from:
Ukraine (151); Russia (125); USA (67); China (64); Great Britain (55); Belarus (50); Germany (45); Poland (26); Denmark (25); Canada (19); Finland (19); Latvia (18); Armenia (17); France (11); Switzerland (9); Italy (9); Vietnam (8); India (8); Israel (7); Sweden (6); Turkey (6); Portugal (5); Norway (4); Estonia (4); Holland (4); Kazakhstan (4) *et al.*